



ATTORNEY GENERAL JOHN W. SUTHERS

COLORADO FORECLOSURE PROTECTION ACT

The “Colorado Foreclosure Protection Act” went into effect on May 30, 2006 and applies to **ALL** contacts between home owners facing foreclosure and persons acting as “foreclosure consultants” or “equity purchasers.” **THIS IS ONLY A SUMMARY OF PORTIONS OF THE NEW LAW. YOU SHOULD REVIEW THE ENTIRE ACT (SECTIONS 6-1-1101 THROUGH 6-1-1120, C.R.S.)**

FORECLOSURE CONSULTANTS

DEFINITIONS

- Applies only to a “**residence in foreclosure**” – any residential property (1 to 4 units) where the home owner is 30 days delinquent or in default on their mortgage, or upon which a Notice of Election and Demand has been recorded.
- Applies to “**foreclosure consultants**,” defined as any person who makes a solicitation, representation or offer to a home owner to help home owners stop or postpone a foreclosure sale, exercise a right to cure or redeem a property in foreclosure, obtain a loan or other advance of funds, or avoid or reduce the impairment of a home owner’s credit. **A foreclosure consultant may not charge ANY advance fees and may not, directly or through an associate, take any title or interest in the home owner’s property.**
 - **NOT INCLUDED** – Attorneys, realtors, banks, trust companies, savings and loan associations, credit unions, insurance companies, and title insurers, when performing their normal business activities. Also, non-profit organizations not associated with the foreclosure consultant, persons holding or servicing any loan or other evidence of debt owed by the home owner secured by a lien on the property and persons who originate or close a loan in the ordinary course of that person’s business and when such loan is subject to the federal “Real Estate Settlement Procedures Act.”

REQUIREMENTS

- An agreement with a home owner to perform any services as a foreclosure consultant must be in writing (at least 12 point type). The home owner must be given at least twenty-four hours to review the contract before it is signed. The contract must be translated into the language principally spoken by the homeowner and must include the following information:
 - Name and address of the foreclosure consultant;
 - Full disclosure of the foreclosure consulting services to be performed and the terms of any payment to be made by the homeowner;
 - Date of the contract and the signature of each home owner (the home owner must also initial every page of the contract) acknowledged by a notary public in the presence of the home owner;
 - The bold-faced **Notice** (14-point type) required by the Act, including the home owner’s right to cancel the contract at any time; **AND**
 - A form Notice of Cancellation (14-point type) as required by the Act.

PROHIBITED CONDUCT

- The Act prohibits the following conduct by foreclosure consultants:
 - Acquiring an interest, directly, indirectly, or through an associate, in the real or personal property of a home owner with whom you have contracted;
 - Claiming, demanding, charging, collecting, or receiving any compensation until after you have fully performed each and every service contracted for;
 - Claiming, demanding, charging, collecting, or receiving any interest or any other compensation for a loan that you make to the home owner that exceeds the prime rate published by the Federal Reserve plus two percentage points, with the total interest rate not to exceed eight percent per year;
 - Taking a wage assignment, lien of any type on real or personal property, or other security to secure the payment of compensation;
 - Receiving any consideration from a third party in connection with the foreclosure consulting services you provide unless the consideration is first fully disclosed in writing to the home owner;
 - Obtaining a power of attorney from a home owner for any purpose other than to inspect documents as provided by law;
 - Inducing or attempting to induce a home owner to enter into a foreclosure consulting contract that does not comply in all respects with this Act;
 - Engaging in conduct that is found by a court to be deceptive, misleading or unconscionable.

PENALTIES

- Violation of this Act may subject you to the following:
 - A misdemeanor punishable by up to one year in county jail, a fine of up to \$25,000, or both;
 - Civil penalties of up to \$2,000 per violation or up to \$10,000 per violation if the home owner is age 60 or older;
 - Treble damages, costs and attorney fees;
 - Injunctions, rescission, disgorgement of profits, and restitution to victims.
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